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CHAPTER 45-300 AFDC-FC PAYEE, PAYMENT AND DELIVERY

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CHAPTER 45-300 AFDC-FC PAYEE, PAYMENT AND DELIVERY

45-301 ELIGIBLE PAYEES 45-301

.1 Federal AFDC-FC Program

- .11** FFP shall be available for payments made on behalf of a federally eligible child to any one of the following:
 - .111** A family home in which the child has been placed.
 - .112** A licensed, private, nonprofit group home in which the child has been placed.
 - .113** The probation officer.
 - .114** A cooperating public or nonprofit private child placement or child care agency which is licensed by the department, where required, and which has responsibility for placement and care of the child.
 - .115** The licensed homefinding agency which certified the exclusive-use home in which the child has been placed.

.2 State AFDC-FC Program

- .21** Under the state program, payments shall be made to:
 - .211** Any one of the payees listed in .1 above.
 - .212** A licensed, private, non-profit group home in which the child has been placed.
 - .213** The nonrelated legal guardian with whom the child has been placed.
 - .214** An eligible child, as his/her own payee, who is temporarily absent from an eligible facility, provided (a) and (b) below are met:
 - (a)** The child is otherwise eligible and:
 - (1)** Aged 16 or 17 and temporarily absent to attend a college, vocational or work and training institution; or

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- (2) Aged 18, and temporarily absent to attend a high school or vocational-technical training program as specified in Section 45-201.111(b)(3).
- (b) All the following conditions are met:
 - (1) Payment to the child is necessary to implement the social service plan.
 - (2) The social worker or probation officer has determined the child is sufficiently mature and responsible.
 - (3) None of the payees in .211 or .212 above is feasible.
 - (4) Payment for the same period has not been made to one of the payees in .211 or .212.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11400(h) and 11402(c), Welfare and Institutions Code.

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.1 SSI/SSP Supplementation

- .11 The county shall have the option of supplementing a child's SSI/SSP grant with state AFDC-FC when the child in foster care placement meets all general and state AFDC-FC requirements, and is not otherwise federally eligible. FFP shall not be available in the AFDC-FC supplement to the SSI/SSP grant.

.2 Payment Conditions

- .21 Except as specified below, payment shall only be made when the child is not living in the same home as his/her birth or adoptive parent(s) and resides in an eligible facility which is not the same home in which the parent(s), relative, or legal guardian from whom the child was removed makes his/ her home.
 - .211 An infant supplement shall be paid in addition to a minor parent's AFDC-FC payment for a child who is living in the same eligible facility with a minor parent who is receiving AFDC-FC.
 - .212 The infant supplement amount shall be determined pursuant to Section 11-415.

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- .22 AFDC-FC payments shall not be made for any days an otherwise eligible child resides in an unlicensed group home or in an unlicensed or unapproved family home.
- .23 Child Temporarily Absent
- .231 When an AFDC-FC eligible child is temporarily absent from an eligible facility such as for school, work or training program, hospitalization, visiting, vacationing, emergency circumstances, the county shall have the option of making payment to the eligible facility from which the child is absent in order to meet the child's needs. The payment shall be made to one of the payees listed in Section 45-301.1 or 45-301.2.
- (a) A child who is in a public hospital, as defined in Section 80-301(p)(3), shall be considered temporarily absent from an eligible facility when, on the first of the month for which the AFDC-FC payment is due, the child has not been in the public hospital for two full calendar months, irrespective of the day on which he or she entered that facility.
- .24 Child Living with Nonrelated Legal Guardian
- .241 When the child resides in the home of a nonrelated legal guardian who is not cooperating with the county welfare department in its provision of social services, as required in Section 45-203.611(c), AFDC-FC shall not be paid.
- .25 Child Placed in Out-of-State Group Home
- .251 No public funds shall be expended on behalf of a child placed in an out-of-state group home unless all of the following conditions are met:
- (a) There has been a finding by the court that:
- (1) The group home is licensed or certified for the placement of minors by an agency in the state in which the minor will be placed; and
- (2) All the requirements specified in Family Code Section 7911.1 have been met.
- (b) The court reviews the out-of-state group home placement every six months to ensure that the requirements specified in MPP Sections 45-302.251(a)(1) and (2) continue to be met.
- (c) The court reviews the out-of-state group home placement at each periodic review and permanent placement hearing to ensure that the out-of-state placement continues to be the most appropriate placement for the child and continues to be in the best interests of the child.

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- (d) The assessment and placement recommendation as specified in MPP Section 45-201.44 have been met.
- (e) The monthly visit requirements as specified in MPP Section 45-201.414(a) have been met.
- (f) The child is placed in an eligible facility as specified in MPP Section 45-202.517 or MPP Section 45-203.417, as appropriate.
- (g) There has been an additional finding by the court that in-state facilities or programs have been determined to be unavailable or inadequate to meet the needs of the child.
- (h) The court reviews the out-of-state group home placement every six months to ensure that the requirements specified in MPP Section 45-302.251(g) continue to be met.

.3 Beginning Date of Aid

.31 If the child is determined to be eligible, the beginning date of aid for AFDC-FC shall be the date of application if the child meets all eligibility conditions on that date, or the date on which the child meets all eligibility conditions, whichever is later.

.32 For purposes of .31 above:

.321 "The date of application" means the date on which an authorized county employee completes, signs and dates an application on behalf of a child, or the date on which the county receives a signed and dated application from the child's parent or a person other than a county employee.

.322 "The date on which the child meets all eligibility conditions" means the date that the following conditions exist, even though verification or documentation of the condition is received at a later date:

- (a) All linking and nonlinking factors of eligibility are met, including deprivation of parental support or care, age, citizenship or alienage status, residence, property and income eligibility requirements; and
- (b) All other applicable conditions of eligibility are met including, but not limited to, technical conditions of eligibility, authority for placement and eligible facility requirements, as specified in MPP 45-201, 45-202 or 45-203, and 45-300. Technical conditions of eligibility as specified in MPP 45-302.322(c) are considered to be met on the date of application as long as the conditions are completed by the date of authorization.

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- (c) For purposes of determining the beginning date of aid for AFDC-FC, the technical conditions of eligibility are limited to social security enumeration, application for unconditionally available income and child support requirements.
- .33 Other provisions pertaining to restoration of aid, intraprogram status changes and intercounty transfers are found in MPP 44-317.
- .4 AFDC-FC Budgeting Methods
 - .41 The budget period for computation of AFDC-FC grants shall be the current month. AFDC-FC grants shall be computed on the basis of known or estimated income in the current calendar month (i.e., prospective budgeting method).
 - .42 Every effort shall be made by the county to ensure that the foster care provider or relative with whom the child is placed or the nonrelated legal guardian with whom the child lives and the parent(s) and the child are aware of the necessity to report any change in need or income for the child.
 - .43 Budget Computations
 - .431 The foster care grant shall be computed by:
 - (a) Rounding to the next lowest dollar the total net income of the child as determined under Chapter 44-100 and the sum of the county foster care rate and specialized care increment as determined under Operations Manual Chapter 11-400; and
 - (b) Subtracting the rounded current net income from the rounded sum of the rate and specialized care increment.

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.5 Last Date of Payment

.51 Except as provided in .511 below, the last date of payment shall be the day preceding the day the child permanently leaves, is removed or runs away from an eligible facility, or turns eighteen (or nineteen pursuant to Section 45-201.1).

.511 The county shall have the option of making an additional AFDC-FC payment beyond the date in which the child permanently leaves or is removed from foster care provided the following conditions are met:

- (a) The child has been moved from the eligible facility to what the placement agency considers a potentially unstable living arrangement or the child has run away from such eligible facility.
- (b) The same eligible facility has agreed to take the child back immediately upon notice from the placement agency, regardless of whether the child actually returns to that same facility.
- (c) The child has not been moved from one eligible facility to another eligible facility.
- (d) No other AFDC-FC payment has been made for the same period.
- (e) The additional payment does not exceed the monthly rate set for the eligible facility and does not extend beyond the end of the month in which the child leaves the facility.

.52 When an otherwise eligible child has been moved from one eligible facility to another, the day the child is moved and placed in the second facility shall be the first day of payment for the second provider.

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.6 Rate of Payment

.61 For provisions pertaining to rate setting for family homes, group homes and foster family agencies, see Chapter 11-400.

HANDBOOK CONTINUES

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HANDBOOK CONTINUES

- .62 For provisions pertaining to clothing allowance and funeral expense special needs for AFDC-FC, see Section 11-420.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code. Reference: Section 7911.1, Family Code; and Sections 361.21, 366, 727.1, 11017, 11056, 11400(f), 11401, 11402, 11403, 11405, 11269, and 16516.5, Welfare and Institutions Code.

45-303	PAYMENT DELIVERY	45-303
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- .1 AFDC-FC payments shall be delivered in one amount no later than the fifteenth of the month following the furnishing of care. Warrants shall not be forwarded or mailed outside the United States, as specified in Section 44-305.21.

45-304	AFDC-FC OVERPAYMENTS FOR FOSTER FAMILY HOMES, RELATIVE HOMES, NONRELATIVE EXTENDED FAMILY MEMBERS, AND NON-RELATED LEGAL GUARDIANS - GENERAL	45-304
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- .1 Overpayment Recovery for Foster Family Homes, Relative Homes, Nonrelative Extended Family Members, and Non-related Legal Guardians
- .11 An overpayment is any amount of aid paid which a foster care provider received on behalf of a child to which the provider was not entitled. A provider is not entitled to aid where the provider did not care for the child in his or her home for the period of time for which he or she was paid.
- .12 The county shall take all reasonable steps necessary to promptly correct and collect any overpayments that are discovered by the county on or after January 1, 1999.
- .121 The county shall not demand collection of overpayments where any of the following conditions exist:
- (a) The child was temporarily absent from the provider's home and payment was made to the provider to meet the child's needs pursuant to Section 45-302.231;
 - (b) The overpayment was exclusively the result of a county administrative error;

45-304	AFDC-FC OVERPAYMENTS FOR FOSTER HOMES, RELATIVE HOMES, AND NON-RELATED LEGAL GUARDIANS - GENERAL	45-304
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(Continued)

- (c) Neither the county nor the provider was aware of the information that would establish that the child was not eligible for foster care benefits in that provider's home; or
- (d) The provider did not have knowledge of, and did not contribute to, the cause of the overpayments or
- (e) The cost of the collection exceeds the amount of the overpayment.
 - (1) Costs which the county shall consider when determining the cost effectiveness to collect are total administrative and personnel costs, legal filing fees, investigative costs, and any other costs which are applicable.

.122 Nothing in Section 45-304.121 prevents counties from collecting an overpayment which results from the payment of aid paid pending.

.2 Investigation of Overpayments

.21 When information indicates that an overpayment may have occurred, the county shall take the following actions:

- .211 Review the eligibility factors to determine what the correct grant amount should have been;
- .212 If an overpayment is discovered, determine whether any of the factors in Section 45-304.121 preclude overpayment recovery;
- .213 If none of the factors in Section 45-304.121 preclude recovery, calculate the overpayment;
- .214 Determine from whom the overpayment may be recovered (see Section 45-304.3);
- .215 Determine the appropriate recovery method (see Section 45-305) and the amount to be recovered.

.3 Overpayment Recoupment

.31 Overpayments shall only be collected from the provider who actually received the overpayment from the county. Overpayments shall not be collected from subsequent providers who provide care to the child for whom the overpayment was assessed.

45-304	AFDC-FC OVERPAYMENTS FOR FOSTER HOMES, RELATIVE HOMES, AND NON-RELATED LEGAL GUARDIANS - GENERAL	45-304
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(Continued)

- .32 If the child for whom the overpayment was assessed is no longer residing in the home of the provider, grant adjustment and grant offset shall not be used to recover the amount of the overpayment. This section applies even if the provider is caring for other foster care children.

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- .321 Section 45-304.32 does not prohibit those overpayment collection procedures detailed in Section 45-305.22 or .23.

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.4 Limitations on Recoupment of Overpayments

- .41 A county shall not collect interest on the repayment of an overpayment.
- .42 A county shall not notify a provider or institute recovery procedures where it has been more than a year since the initial determination of an overpayment.

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- .421 The initial determination of the overpayment may occur more than a year after the actual overpayment occurred and recovery shall be sought. The date of determination is controlling, not the date of the actual overpayment.

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- .422 This section does not prohibit the county from entering into voluntary or involuntary repayment schedules which last longer than a year from the date of the initial determination of the overpayment.
- .423 This section does not apply where the county institutes an involuntary repayment schedule after a provider has failed to comply with a voluntary repayment schedule.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11466.24, Welfare and Institutions Code.

45-305	AFDC-FC OVERPAYMENTS FOR FOSTER FAMILY HOMES, RELATIVE HOMES, AND NON-RELATED LEGAL GUARDIANS - METHODS OF OVERPAYMENT RECOVERY	45-305
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Using an appropriate county developed Notice of Action form, the county shall inform the provider of the overpayment and inform the provider that he or she is required to repay the overpayment. The Notice of Action form shall also notify the provider that the provider can either voluntarily repay the overpayment or that an involuntary overpayment collection procedure will be instituted against the provider.

.1 Voluntary Repayment Procedures

.11 Voluntary Repayment Agreement

- .111 If a provider is willing to voluntarily repay the assessed overpayment, the county shall sign a written agreement with the provider indicating the amount of the overpayment and delineating the repayment schedule.

.12 Voluntary Grant Offset

- .121 Voluntary grant offset should be explained by the county to those providers where the provider is still providing foster care services to the child for whom the overpayment was assessed. A voluntary grant offset is not available where the provider is only providing services to a different foster child(ren) than the child for whom the overpayment was assessed.

- (a) If the recipient offers to repay the overpayment by foregoing a portion of a grant for the child for whom the overpayment was assessed, the county shall obtain, in writing, an agreement to repay.
- (b) If the recipient agrees to a grant offset, at no time shall the amount deducted from the child's current grant be more than 10 percent of the child's total grant.

45-305	AFDC-FC OVERPAYMENTS FOR FOSTER FAMILY HOMES, RELATIVE HOMES, AND NON-RELATED LEGAL GUARDIANS - METHODS OF OVERPAYMENT RECOVERY (Continued)	45-305
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Example: (1) Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of \$400 is assessed for Joe. Joe's monthly payment is \$408. The provider agrees to a voluntary grant offset. \$40 is subtracted from Joe's monthly payment, for a total monthly payment of \$368, for 10 months. Neither Jenny nor Johnny's payments are reduced.

	\$408 (monthly grant)
x	.10% (maximum)
	\$40 (amount to be deducted from monthly grant)
	\$408 (monthly grant)
-	\$ 40
	\$368 (new monthly grant for 10 months)

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(c) If the recipient agrees to a grant offset, at no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.

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Example: (1) Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of \$400 is assessed for Fred who had lived in Provider Jones' house last month. Grant adjustment is not available.

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.2 Involuntary Repayment Procedures

.21 Involuntary repayment procedures shall only be used when a provider has refused to enter a voluntary repayment agreement or has failed to comply with the terms of a voluntary repayment agreement.

45-305 AFDC-FC OVERPAYMENTS FOR FOSTER FAMILY HOMES, RELATIVE HOMES, AND NON-RELATED LEGAL GUARDIANS - METHODS OF OVERPAYMENT RECOVERY (Continued) **45-305****.22 Grant Adjustment**

.221 Grant adjustment shall only be used where the provider is still providing foster care services to the child for whom the overpayment was assessed. An involuntary grant offset is not available where the provider is only providing services to a different foster child(ren) than the child for whom the overpayment was assessed.

- (a) If the overpayment is to be recovered by grant adjustment, the county shall deduct no more than 5 percent of the total grant amount each month.

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Example: (1) Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of \$400 is assessed for Joe. Joe's monthly payment is \$408. The provider refuses to enter into a voluntary repayment agreement; the county institutes an involuntary grant adjustment. \$20 is subtracted from Joe's monthly payment, for a total monthly payment of \$388. For 20 months. Neither Jenny nor Johnny's payments are reduced.

	\$408 (monthly grant)
x	.05% (maximum)
	\$ 20 (amount to be deducted from monthly grant)
	\$408 (monthly grant)
-	\$ 20
	\$ 388 (new monthly grant for 20 months)

HANDBOOK ENDS HERE

- (b) At no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.

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Example: (1) Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of \$400 is assessed for Fred who had lived in provider Jones' house last month. Grant adjustment is not available.

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45-305	AFDC-FC OVERPAYMENTS FOR FOSTER FAMILY HOMES, RELATIVE HOMES, AND NON-RELATED LEGAL GUARDIANS - METHODS OF OVERPAYMENT RECOVERY (Continued)	45-305
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.23 Demand for Repayment

Where voluntary and involuntary repayment procedures are not available, the county shall demand repayment of any amount not recovered by grant adjustment, or otherwise repaid, using an appropriate Notice of Action form.

.24 Civil Judgment

If the provider has failed to comply with voluntary repayment procedures and/or a demand for repayment and a grant adjustment shall not be used as the provider is no longer providing services to the child for whom the overpayment was assessed, the county shall refer the case to the appropriate county official for action on a civil judgment.

.241 An abstract of civil judgment shall be recorded pursuant to Section 674, Code of Civil Procedure, in any county in which the provider or former provider owns real property.

.242 The county shall take all appropriate actions pursuant to Section 681 et seq., Code of Civil Procedure, to execute the judgment.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11466.24, Welfare and Institutions Code.

45-306 INFORMAL HEARING PROCEDURES**45-306**

This section applies only to the appeal rights of providers subject to an overpayment assessment pursuant to Section 45-304 and Section 45-305. This informal hearing process is not available to providers who have defaulted on a voluntary repayment schedule.

- .1 The informal hearing process shall not interfere with the provider's right to a state hearing.
- .2 Counties shall provide informal hearings in accordance with the following procedures:
 - .21 Counties must notify the provider of the availability of an informal hearing process at the same time the county notifies the provider of the overpayment. The right to an informal hearing is in addition to the right to a state hearing. The notice to the provider must inform the provider that he or she must request either an informal hearing or a formal hearing within 30 days of the receipt of the notice.
 - .22 An informal hearing shall be provided by the CWD to the provider only when the provider has requested an informal hearing in writing no later than 30 days after the overpayment notice was mailed by the county.
 - .23 The informal hearing shall be conducted by an employee designated by the county welfare department director. The designated employee shall be at least one supervisory step above the employee which made the initial overpayment determination. The designated employee shall not have been involved in the initial overpayment determination.
 - .24 The informal hearing shall be permitted to be held in an office or facility of the CWD. If necessary, the informal hearing may be held elsewhere or by telephone.
 - .25 The CWD shall mail or deliver to the provider the county's written notice of the time and place of the informal hearing not less than seven days prior to the hearing.
 - .26 The informal hearing shall be limited to consideration of the correctness of the initial overpayment determination and whether any of the factors in Section 45-304.121 bar recovery. The county should also discuss the methods of overpayment recovery with the provider and attempt to enter into a voluntary repayment agreement, where appropriate.
 - .27 After the hearing, the county employee who conducted the informal hearing shall prepare a Notice of Action which contains the decision on each issue considered at the informal hearing, and identification of the regulations which support the written decision and mail the Notice of Action to the provider. The Notice of Action must inform the provider that he or she can appeal the informal hearing decision at a formal state hearing.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11466.24, Welfare and Institutions Code.

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**AFDC-FC, EA-ANEC, AND AAP PROGRAMS
EA-ANEC PROGRAM**

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45-400	EMERGENCY ASSISTANCE-ABUSED, NEGLECTED OR EXPLOITED CHILDREN (EA-ANEC) PROGRAM	45-400
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Repealed by Manual Letter No. EAS-90-04, effective 10/1/90.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

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Repealed by Manual Letter No. EAS-90-04, effective 10/1/90.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

45-402	ELIGIBILITY REQUIREMENTS	45-402
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Repealed by Manual Letter No. EAS-90-04, effective 10/1/90.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

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Repealed by Manual Letter No. EAS-90-04, effective 10/1/90.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code.

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CHAPTER 45-800 ADOPTIONS ASSISTANCE PROGRAM (AAP)

45-801 DEFINITIONS 45-801

The definitions specified in Title 22, California Code of Regulations (CCR), Section 35000 shall apply in this chapter.

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- .1 CCR Title 22, Section 35000 states in part:
 - .11 "AAP-Eligible Child" means a child who meets the eligibility criteria of Welfare and Institutions Code Section 16120 found in Section 35326.
 - .12 "Agency" means a licensed California public or private adoption agency, or the department's adoption district offices.
 - .13 "County" means the income maintenance division in each county welfare department responsible for federal and state eligibility determination and payment of AAP benefits.
 - .14 "Recertification" means the process by which the agency and the adoptive parent determine whether there are any changes in either the child's needs or the adoptive parent's circumstances which affect eligibility for and/or duration of and/or amount of adoption assistance payments.

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NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Sections 16118, 16120 and 16120.05, Welfare and Institutions Code and 42 USC 673.

45-802 AAP ELIGIBILITY 45-802

- .1 To be eligible for AAP, the child shall meet the requirements under either the federal program or the state program.
 - .11 For purposes of state AAP benefits, the agency shall have determined that the child is an AAP-eligible child who meets the conditions specified in Welfare and Institutions Code Section 16120.

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.111 Welfare and Institutions Code Section 16120 states:

"A child shall be eligible for Adoption Assistance Program benefits if all of the following conditions are met:

- (a) The child has at least one of the following characteristics that are barriers to his or her adoption:
 - (1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, age of 3 years older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.
 - (2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability pursuant to Welfare and Institutions Code Section 4512 subdivision (a), including those determined to require out-of-home nonmedical care as defined in Welfare and Institutions Code Section 11464.
- (b) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

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- (c) The child is the subject of an agency adoption as defined in Section 8506 of the Family Code and was any of the following:
 - (1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency,
 - (2) Relinquished for adoption to a licensed California private or public adoption agency, or the department, and would otherwise have been at risk of dependency as certified by the responsible public child welfare agency, or
 - (3) Committed to the department pursuant to Section 8805 or 8918 of the Family Code.
- (d) The child is under 18 years of age, or under 21 years of age and has a mental or physical condition which warrants the continuation of assistance.
- (e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.
- (f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.
- (g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits."

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- .12 Adoption Assistance Agreements signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).

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- .121 Welfare and Institutions Code Section 16121.05(b) states:

"(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement."

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- .13 After the agency has determined that the child has met the conditions of Welfare and Institutions Code Section 16120, the county shall determine for purposes of federal AAP eligibility whether the child meets the requirements of Sections 45-802.131, .132 or .133 at the time the adoption petition is filed.
- .131 The child shall meet all of the requirements necessary to receive aid under the Supplemental Security Income/State Supplementary Program (SSI/SSP); or
- .132 The child shall meet all of the requirements necessary to receive aid under the federal AFDC-FC (Title IV-E foster care) program.
- (a) A child for whom a facility received a federally funded infant supplement is eligible for federal AAP as long as the conditions of Welfare and Institutions Code Section 16120 are met.
- .133 The child shall meet all of the requirements necessary to receive aid under the federal AFDC-FG or U program and be placed for adoption with the relative with whom the child has been living.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Sections 16120 and 16121.05(b), Welfare and Institutions Code and 42 USC 673.

45-803	COUNTY OF RESPONSIBILITY	45-803
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- .1 The county welfare department shall be responsible for determining federal eligibility and making payment for AAP.
- .2 The determination of the county responsible for the actions in Section 45-803.1 shall be made in accordance with Welfare and Institutions Code Section 16118(e).

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- .21 Welfare and Institutions Code Section 16118(e), in pertinent part, states:

"For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the CalWORKs program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. When the child has been voluntarily relinquished for adoption prior to a determination of eligibility for such a payment, the responsible county shall be the county in which the relinquishing parent resides. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family."

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- .3 Once established, the county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Section 16118, Welfare and Institutions Code.

45-804	PAYMENT	45-804
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.1 County Actions and Payment Amount

- .11 Upon receipt of the Payment Instructions - Adoption Assistance Program form (AAP 2) and the Eligibility Criteria - Adoption Assistance Program form (AAP 4) from the agency, the county shall determine whether the child meets the requirement for federal AAP eligibility as specified in Section 45-802.13.
 - .111 When the child meets the requirements of Sections 45-802.131, .132, or .133, FFP shall be claimed in the AAP payment up to the maximum of the AFDC-FC payment for the child if in a foster family home.
 - .112 In those cases where the child is federally eligible, and will receive a payment greater than the payment for the child if in a foster family home, state participation shall be available to supplement the remainder of the AAP payment.
 - a. In no case shall state participation be available in an amount greater than that which would have been paid had the child remained or been placed in foster care.
 - .113 When a child meets the requirements of MPP Section 45-802.11, state participation shall be claimed for the AAP payment up to the amount which would have been paid had the child remained or been placed in foster care.
- .12 The county shall issue the payment in the amount indicated on the AAP 2 except as provided in .212 below.

.2 Beginning Date of Payment

- .21 The beginning date of payment for AAP shall be the date indicated on the AAP 2.
 - .211 If the beginning date of the payment begins on the first day of the calendar month, payment shall be made for the full month.
 - .212 If the beginning date of payment begins after the first day of the calendar month, payment shall be prorated to cover only that portion of the month for which payment is authorized, including the beginning date of payment.

45-804	PAYMENT (Continued)	45-804
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.3 Payee and Delivery

.31 AAP payments shall be made to the adoptive parent(s).

.311 Upon the written instruction of the adoptive parent, payment may be made on the parent's behalf to a provider of out-of-home care services if the child is placed out of the adoptive home.

.32 Except as provided in .321 below, AAP payments shall be delivered monthly in advance.

.321 The warrant shall be placed in the mail in time to be received by the first day of the calendar month.

.322 The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date on which the county receives the AAP 2 from the agency authorizing payment.

.4 Recertification and Restoration of Payment

.41 After initial authorization of payment, the county shall take action to restore, increase, suspend, decrease, or discontinue payment as instructed by the agency on the AAP 2.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Sections 16121, Welfare and Institutions Code and 42 USC 673.

45-805	RECERTIFICATION OF ELIGIBILITY	45-805
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.1 The county shall mail the adoptive parent(s) the Recertification Information - Adoption Assistance Program form (AAP 3) at least 60, and not more than 90, calendar days prior to the date recertification is due and shall document in the case record the date such form was mailed.

.2 Recertification shall be due at the end of the last month of payment specified on the most recent Payment Instructions - Adoption Assistance Program form (AAP 2).

45-805	RECERTIFICATION OF ELIGIBILITY (Continued)	45-805
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- .21 EXAMPLE: The beginning date of payment is May 13, 1993. Recertification is due on April 30, 1995. The Recertification Information form shall be sent to the adoptive parent(s) before March 2, 1995.

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- .3 The county shall not provide assistance beyond the end of the last month of payment indicated on the AAP 2 unless continued assistance is authorized by the agency on a subsequent AAP 2.
- .31 If the county has not received the AAP 2 by the 10th of the month prior to the date recertification is due, the county is not required to meet the payment time frames specified in Section 45-804.321 but shall meet the time frames specified in Section 45-804.322.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Section 16120.05, Welfare and Institutions Code.

45-806	NOTICE OF ACTION	45-806
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- .1 The county shall mail the adoptive parent(s) adequate notice as defined in MPP Section 22-001a.(1) after receiving notice from the agency of any of the following events:
- .11 Denial of a request for adoption assistance benefits.
- .12 Completion of a deferred payment agreement.
- .13 Authorization of the initial grant.
- .14 Completion of the recertification process.
- .15 Payment termination.
- .16 An overpayment requiring collection.
- .17 Any change in grant amount.
- .2 The county shall send adequate notice of action to the adoptive parent with the Recertification Information - Adoption Assistance Program form (AAP 3) stating that assistance will stop on the date recertification is due if recertification is not completed.

45-806	NOTICE OF ACTION	45-806
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(Continued)

- .3 The county shall send adequate notice of action between 60 and 70 days prior to the ending date of payment when the child reaches the age of 18, or when the adoption assistance agreement has specified that program benefits are for a specific, time-limited duration.
- .4 When county action would result in a discontinuance, suspension, or decrease in payment, the county shall mail adequate and timely notice as defined in MPP Sections 22-001a.(1) and 22-001t.(1). Such notice shall be mailed to the adoptive parent(s) at least ten days prior to the effective date of the proposed action.
- .5 When the county sends a Notice of Action to the adoptive parent(s), the county shall also send a copy of such notice to the agency.
- .6 State hearings shall be conducted pursuant to the provisions of MPP Chapter 22-000.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Section 16121.05, Welfare and Institutions Code and 45 CFR 205.10 and 1355.30.

45-807	MAINTENANCE OF CASE RECORD	45-807
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- .1 The county AAP case record shall contain copies of the following:
 - .11 All Payment Instructions - Adoption Assistance Program forms (AAP 2) received from the adoption agency.
 - .12 The Eligibility Certification - Adoption Assistance Program form (AAP 4).
 - .13 The Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program form (FC 10) from the agency supporting the determination that the child meets the federal AAP eligibility requirements of Section 45- 803.
 - .14 All Notices of Action sent to the adoptive parent(s) and the adoption agency.
 - .15 The Health Insurance Questionnaire (DHS 6155).

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Section 16118, Welfare and Institutions Code.

45-808	OVERPAYMENT RECOUPMENT	45-808
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- .1 The county may attempt to recover all AAP overpayments.
 - .11 Recovery of overpayments from an adoptive parent no longer receiving assistance is not required when the cost of collection would exceed the amount of recovery.
 - .12 Recovery shall be made from the adoptive parent(s) who signed the Adoption Assistance Agreement form (AD 4320).
 - .121 If the overpayment resulted from a payment made to an out-of-home care provider upon request of the adoptive parent, as provided in Section 45-804.311, recovery of payments made for services not provided shall be made from the out-of-home care provider.
- .2 Methods of Recovery
 - .21 Grant Adjustment
 - .211 Subject to the limit in Section 45-808.212, the overpayment shall be subtracted from the current AAP payment. If the current AAP payment is insufficient to recover the entire overpayment, then the remaining amount of the overpayment shall be subtracted from the AAP payments to be received during the succeeding six months or less, or by the end of the child's eligibility for AAP benefits, whichever occurs first.
 - .212 The amount of the adjustment shall not exceed an amount which would cause the adoptive family's net income to be below the Aid to Families With Dependent Children (AFDC) Minimum Basic Standard of Adequate Care (MBSAC) as specified in Section 44-315.311.
 - .22 Demand for Repayment
 - .221 The county shall demand repayment of any amount not recovered by grant adjustment, or otherwise repaid using the appropriate Notice of Action form.

45-808	OVERPAYMENT RECOUPMENT	45-808
	(Continued)	

.23 Civil Judgment

.231 If the adoptive parent no longer receiving aid refuses or is unable to repay the amount demanded, the county shall refer the case to the appropriate county official for action on a civil judgment.

(a) An abstract of civil judgment shall be recorded pursuant to Section 674, Code of Civil Procedure, in any county in which the recipient owns real property.

(b) If a recipient is ineligible for further aid, the county shall take all appropriate action pursuant to Section 681, et seq., Code of Civil Procedure, to execute the judgment.

.24 Nothing in Sections 45-808.21, .22 or .23 shall preclude the county from arriving at a reasonable settlement of its demand for repayment with the adoptive parent.

NOTE: Authority cited: Sections 10553, 16118 and 16121.05, Welfare and Institutions Code.
Reference: Section 16121.05, Welfare and Institutions Code.

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CHAPTER 46-100 STATE SUPPLEMENTARY PAYMENT (SSP) PROGRAM

46-105 ADMINISTRATION 46-105

- .1 Compliance with all civil rights laws, rules and regulations of Division 21 is required in the administration of these regulations, including compliance by contractors and subcontractors.

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- .2 The State Supplementary Payment (SSP) Program provides money payments to eligible aged, blind, or disabled California residents. SSP is administered by the Social Security Administration (SSA) in conjunction with the federal Supplemental Security Income (SSI) Program. Applications for SSI/SSP are taken at SSA field offices. SSA determines the individual's eligibility and grant amount pursuant to Title XVI of the Social Security Act; Welfare and Institutions Code Sections 12000 - 12205 and 13910 - 13922; and an agreement between the Secretary of Health and Human Services (HHS) and the State Department of Social Services (SDSS). The SSI and SSP grant amounts are delivered in a combined monthly check. Members of eligible couples each receive their own SSI/SSP check. SSI/SSP recipients are Medi-Cal eligible and may qualify for the Special Circumstances Program as specified in Section 46-425, and In-Home Supportive Services (IHSS) Program as specified in MPP Section 30-700. Blind recipients may also qualify for the Food for Guide Dogs Program as specified in Section 46-430.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 11135(b), Government Code; and Title VI of the Civil Rights Act of 1964.

46-110 ELIGIBILITY 46-110

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- .1 Federal regulations governing eligibility for the SSI Program are set forth in the Code of Federal Regulations, Title 20, Part 416 (20 CFR 416). An individual is eligible for SSP if he/she meets the SSI eligibility requirements, with the exception of certain income requirements as specified in Welfare and Institutions Code Section 12152. An individual may also have countable income in excess of the SSI standard and still be eligible for SSP benefits provided that the countable income is less than the appropriate combined SSI/SSP benefit level specified in Section 46-120.

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- .2 No period of residency in the state shall be required to gain eligibility.
- .21 For SSP eligibility purposes, an individual shall cease to reside in the state if he/she leaves the state with the present intent to abandon it as his/her home.
- .22 In absence of evidence to the contrary, if an individual is physically absent from the state for more than 90 calendar days, this absence shall be considered as evidence of his/her present intent to abandon this state as his/her home.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Sections 12103, 12150, 12152, 12201, and 12552, Welfare and Institutions Code; 20 CFR 416.200 through .269, and 20 CFR 416.1100 through .1182 Chapter 102, Statutes of 1981; and Sections 1616 and 1616(b), Social Security Act.

46-120	BENEFIT LEVELS	46-120
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- .1 Effective January 1, 1987, SSI/SSP "monthly benefit levels" established in accordance with Welfare and Institutions Code Sections 12200, 12201, 12201.5, 12205, 13911, 13920, 13921, and 13922 are as follows:

.11 <u>ELIGIBLE INDIVIDUAL</u>	<u>BENEFIT LEVEL</u>
Aged or Disabled	\$ 560.00
Aged or Disabled without Cooking and Food Storage Facilities ("Restaurant Meals" Category)	\$ 620.00
Blind	\$ 627.00
Disabled Minor Under 18 Living with Parent	\$ 444.00
Resident of "Nonmedical Out-of-Home Care" (NMOHC) Facility (This benefit is made up of the components shown below.)	\$ 632.00
	<u>Minimum</u>
For Personal and Incidental Needs of the Recipient	\$ 74.00
	<u>Maximum</u>
Room and Board	\$270.00
Care and Supervision	<u>+288.00</u>
	\$558.00

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.12	<u>ELIGIBLE COUPLE</u>	<u>BENEFIT LEVEL</u>
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Both of Whom are Aged or Disabled	\$1039.00
Both of Whom are Aged or Disabled without Cooking and Food Storage Facilities ("Restaurant Meals" Category)	\$1160.00
Both of Whom are Blind	\$1221.00
One of Whom is Blind and the Other is Aged or Disabled	\$1152.00
Both of Whom are Residents in a "Nonmedical Out-of-Home Care" (NMOHC) Facility (This benefit level is made up of the components shown below.)	\$1264.00

	<u>Minimum</u>
For Personal and Incidental Needs of the Recipient	\$ 148.00
For Needs Met by the Facility	<u>Maximum</u>
Room and Board	\$ 540.00
Care and Supervision	<u>+576.00</u>
	\$1116.00

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- .13 State law (Welfare and Institutions Code Section 13921) governs the minimum amount of the NMOHC benefit to be kept by the recipient for personal and incidental (P&I) needs. The minimum P&I amount for 1987 is \$74. If the recipient's P&I needs are provided for, in whole or in part, by the facility under an agreement between the recipient and the facility, the recipient pays the facility the agreed upon portion of the P&I allowance. A facility is expressly prohibited by state law (Welfare and Institutions Code Section 11006.9) from obtaining the recipient's P&I money as an additional cost of care.

An SSI/SSP recipient who has no income beyond his/her SSI/SSP grant has a maximum of \$558 available for the cost of his/her board, care and supervision (that is, the \$632 NMOHC benefit, minus the \$74 P&I minimum to be retained by the recipient equals \$558 available to pay the facility.)

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46-120	BENEFIT LEVELS (Continued)	46-120
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A recipient who does have income beyond his/her SSI/SSP grant may have up to an additional \$20 available for his/her cost of care. This is because, under federal rules, the first \$20 of a recipient's income is not counted. Neither federal nor state law restrict the recipient in how this additional income is spent. Therefore, the recipient may be required by the facility to pay this additional amount for the cost of basic services. As a result the maximum that such a recipient may be charged for basic services is \$578.

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NOTE: Authority cited: Section 10553, Welfare and Institutions Code. Reference: Sections 11006.9, 12200, 12201, 12201.5, 13911, and 13920 through 13922, Welfare and Institutions Code.

46-130	EXCEPTIONS TO BENEFIT LEVELS	46-130
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- .1 A recipient's benefit level is reduced by the amount of any countable income he or she has.
- .2 When a recipient resides in the home of another and receives both room and board in-kind from the householder, the SSI/SSP benefit level will be reduced by one-third of the applicable SSI payment standard. This reduction does not apply when a recipient or applicant is a child residing in the home of his/her parent(s).
- .3 An SSI/SSP recipient who received benefits for December 1973, under the former state aid programs of Old Age Security (OAS), Aid to the Blind (AB), or Aid to the Totally Disabled (ATD), will receive "mandatory state supplementation" (MSS) if he/she was converted to SSI/SSP in January 1974, and if the MSS payment is greater than the SSP amount the recipient would otherwise be eligible for under state and federal law. This MSS payment will, when added to his/her SSI payment (if any) and net countable income as determined under December 1973, regulations, equal the total of the recipient's cash grant and net countable income for December 1973.

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46-140	NONMEDICAL OUT-OF-HOME CARE (NMOHC)	46-140
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.1 "Nonmedical out-of-home care" (NMOHC) shall mean a protective living arrangement outside the SSI/SSP recipient's own home where, as a minimum, he/she receives board, room, and personal nonmedical care and supervision related to his/her individual needs.

.11 NMOHC shall be provided only in:

- (a) a licensed foster care, community care, or residential care facility; or
- (b) a nonlicensed private residence of a recipient's relative or legal guardian/conservator, where the need for and the appropriateness of the care has been certified by the county welfare department. A "relative" shall mean a parent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first-cousin, or any such person denoted by the prefix "grand" or "great" (Exceptions to this rule are included in Section 46-140.13);
- (c) in a "certified family home" as identified in the Health and Safety Code Section 1506(d).

.12 Recipients' eligibility for the NMOHC payment rate shall apply in the following situations:

.121 Children (under age 18)

- (a) Blind children residing in a state licensed NMOHC facility;
- (b) Blind children residing in the home of a relative who is not his/her parent or legal guardian/conservator;
- (c) Disabled children residing in a state licensed NMOHC facility;
- (d) Disabled children residing in the home of a legal guardian/conservator who is not his/her relative;
- (e) Disabled children residing in the home of a relative who is not his/her parent;
- (f) Blind or disabled children in a "certified family home".

46-140	NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued)	46-140
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.122 Adults (age 18 and over)

- (a) Aged, blind, or disabled individuals or couples residing in a state licensed NMOHC facility;
- (b) Aged, blind, or disabled individuals or couples residing in the home of a relative or legal guardian/conservator.

.13 Eligibility for the NMOHC payment rate shall not apply in the following situations:

- (a) Disabled children under 18 and living with his/her parent;
- (b) Individuals living in his/her own home;
- (c) Individuals living with a spouse who is not receiving SSI/SSP, regardless of where they live;
- (d) Blind children (under 18, or 18 to 21 and attending school or training full-time) living in the home of his/her parent or guardian.

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- .2 With regard to a licensed facility or "certified family home" which provides NMOHC, "care and supervision" is defined in the California Administrative Code, Title 22, Section 80001 as follows:

"Care and supervision" means any one or more of the following activities provided by a person or facility to meet the needs of the clients:

- (a) Assistance in dressing, grooming, bathing, and other personal hygiene;
- (b) Assistance with taking medication, as specified in Section 80075;
- (c) Central storing and/or distribution of medications, as specified in Section 80075;
- (d) Arrangement of and assistance with medical and dental care. This may include transportation;

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- (e) Maintenance of house rules for the protection of clients;
- (f) Supervision of client schedules and activities;
- (g) Maintenance and/or supervision of client cash resources;
- (h) Monitoring food intake or special diets;
- (i) Providing basic services as defined in Section 80001(a)(8)."

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- .3 With regard to a nonlicensed private residence in which NMOHC is being provided, "care and supervision" shall be as set forth in California Administrative Code, Title 22, Section 80001, with the exception of Subsections (e), (g) and (i).
- .4 Authorization of Nonmedical Out-of-Home Care in Licensed Facility (Except Foster Family Home)

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- .41 The SSA field office handling the applicant's case will authorize the NMOHC benefit upon verification that the individual resides in a licensed facility. Each local SSA field office will receive from SDSS a monthly microfiche listing of licensed NMOHC facilities for counties in their service area. (Exceptions: some foster family homes which have been licensed by the county will not appear on this listing. See Handbook Section 46-140.5 for procedure regarding foster family homes.)

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- .42 The effective date of NMOHC eligibility for an individual who is residing in a licensed NMOHC facility at the time he or she initially establishes or re-establishes eligibility for SSI/SSP shall be whichever of the following dates is later:
 - (a) The date of the SSI/SSP application, or
 - (b) The date all SSI/SSP eligibility requirements are met.

46-140	NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued)	46-140
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- .43 The effective date of NMOHC eligibility for an individual who is already receiving SSI/SSP and who subsequently enters a licensed NMOHC facility shall be the first of the month during any part of which the recipient resides in the licensed facility.
- .44 An SSI/SSP recipient who resides in a licensed facility that undergoes a change of ownership shall continue to receive the NMOHC benefit level during the facility's "pending" license status provided the facility continues to meet all licensing standards and remains at the same location. An SSI/SSP recipient who becomes a resident of such a facility during the period the license is pending shall receive the "independent living" benefit level until a permanent license is issued. When the permanent license is issued, the recipient shall receive the NMOHC benefit level retroactively to the date of entry into the facility.

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- .5 Certification of Nonmedical Out-of-Home Care in a Foster Family Home or certified family home.
- .51 The SSA field office handling the applicant's case will authorize the NMOHC benefit upon verification that the individual resides in a foster family home or a certified family home. SSA will either obtain the verification from the monthly microfiche listing of licensed NMOHC facilities, or from SDSS Community Care Licensing Division, or will send a request for certification to the CWD on the prescribed certification form.
- .52 The county is not required to certify that the child placed in a certified family home or foster family home needs NMOHC. By definition (California Administrative Code, Title 22, Sections 87001, 89185, and 89188) such homes provide twenty-four (24) hour nonmedical care and supervision of foster children.

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- .53 Upon request by SSA, the county shall verify the child's placement in the certified family home or foster family home on the prescribed certification form.
- .54 The county shall complete and return the certification form within thirteen (13) working days. This turnaround time begins the day the county receives the certification form and ends the day the county forwards the completed form to the local SSA field office. The county shall maintain controls to meet this time frame.
- .55 The effective date of NMOHC eligibility for a child residing in a certified family home or foster family home at the time he or she initially establishes or re-establishes eligibility for SSI/SSP shall be whichever of the following dates is later:

46-140	NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued)	46-140
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- (a) the date of the SSI/SSP application, or
 - (b) the date all SSI/SSP eligibility requirements are met.
- .56 The effective date of NMOHC eligibility for a child who is already receiving SSI/SSP and who subsequently enters a certified family home or foster family home shall be the first of the month during any part of which the recipient resides in the home.

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- .6 Certification of Nonmedical Out-of-Home Care in the Home of a Relative or Legal Guardian/Conservator
- .61 The SSA field office handling the applicant's case will authorize the NMOHC benefit upon receipt of the CWD's certification that the individual needs NMOHC and is receiving it in the home of a relative or legal guardian/conservator. The SSA field office will send a request for certification of NMOHC to the CWD on the prescribed certification form.

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- .62 The county shall certify that the recipient needs NMOHC in order to remain in a noninstitutional setting, and shall certify that the appropriate care is being provided in that living arrangement. When the county learns that a Department of Developmental Services (DDS) Regional Center is providing services to the applicant or recipient, the county may contact the Regional Center worker and base the certification on the worker's knowledge of the case.
- .63 The county shall complete the certification form within thirteen (13) working days. This turnaround time begins the day the county receives the certification form and ends the day the county forwards the completed form to the local SSA field office. The county shall maintain controls to meet this time frame.
- .64 The effective date of NMOHC eligibility for an individual who is receiving such care in the home of a relative or legal guardian/conservator at the time he or she initially establishes or re-establishes eligibility for SSI/SSP shall be whichever of the following dates is later:
- (a) the date of the SSI/SSP application, or
 - (b) the date all SSI/SSP eligibility requirements are met.

46-140	NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued)	46-140
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- .65 The effective date of NMOHC eligibility for an individual who is already receiving SSI/SSP and who subsequently begins receiving NMOHC in the home of a relative or legal guardian/conservator shall be the first of the month in which the county is asked to certify the NMOHC living arrangement. Exception: If the county has material evidence that the individual needed and was receiving care in the living arrangement continuously from an earlier date, NMOHC eligibility may extend back to the month in which the care began or three (3) months from the month the county is asked to certify the NMOHC living arrangement, whichever is later.

The county shall attempt to obtain material evidence of the date on which the care began. If the county cannot obtain sufficient material evidence, the county shall have the recipient indicate the onset date of the care and sign the "Client Statement for Retroactive Certifications" on the reverse side of the prescribed certification form. The county shall then enter the effective date in the appropriate space on the front of the prescribed form.

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- .651 Examples: A recipient moves from his own home on September 23 to his aunt's home because he needs care and supervision. He notifies SSA of the change in living arrangement on September 25. On September 26 SSA asks the county to certify that the recipient needs and is receiving care and supervision in the aunt's home. The county certifies NMOHC on October 3 and so notifies SSA. The recipient's NMOHC payment is made retroactive to September 1.

A recipient moves into his brother's house on May 5 in order to receive care and supervision. He does not report this move to SSA until September 13. On September 14 SSA asks the county to certify that the recipient needs and is receiving care and supervision in his brother's home. The recipient provides the county with material evidence that he has been receiving care and supervision there since May 5. The county certifies NMOHC eligibility back to June 1.

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NOTE: Authority cited: Sections 10553, 10554, 11000, and 13911, Welfare and Institutions Code. Reference: Sections 1500 through 1502, and 1505, Health and Safety Code; Sections 10553, 10554, 11000, 12004, 12200(g), 12201.5, 12202, 13900 through 13902, 13910, 13911, Welfare and Institutions Code; Major v. McMahon Judgment; Sections 80001 and 89188, Cal. Code of Reg., Title 22; Section 1611(c), Social Security Act, Title XVI, and 20 CFR 416.501, .708, and .714.

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The SSI/SSP benefit for a recipient living in a medical facility and receiving more than 50 percent of the cost his/her care from Medi-Cal is \$35 a month. This amount is to cover the personal and incidental needs of the recipient, and includes a \$25 SSI payment and a \$10 SSP payment.

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- (a) An aged or disabled recipient or couple, both of whom are aged or disabled, whose living arrangement prevents the preparation of meals are entitled to an allowance for restaurant meals, in addition to any other payments for which they are eligible.
- (1) The following restaurant meals allowances, established in accordance with Welfare and Institutions Code Sections 12200, 12201, and 12205 apply effective January 1, 1987:

Allowance for
an Individual

\$60.00 per month

Allowance for
a Couple

\$121.00 per month

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- (b) "Living arrangements" shall include the recipient's immediate living quarters as well as other areas in the building in which the recipient's living quarters are located or areas adjacent to these living quarters to which the recipient has access for use of the cooking and food storage facilities.
- (c) Cooking and food storage facilities shall be considered accessible if the recipient or someone preparing meals on behalf of the recipient is allowed to use facilities within the living arrangement, whether owned by the recipient or by another, to prepare any of the recipient's meals. Cooking and food storage facilities shall not be required to be part of the immediate living quarters in order to be considered accessible.

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- (d) There is another program under which an aged or disabled recipient may qualify for a comparable meals allowance even when the living arrangement does not prevent home meal preparation, if the recipient's disabilities prevent home meal preparation. Application for benefits based on a need due to disability rather than lack of meal preparation facilities should be made to the CWD under the In-Home Supportive Services (IHSS) Program.

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- (e) No recipient shall receive SSP and IHSS meals allowance benefits at the same time.

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- (f) Recipients who wish to apply for the Restaurant Meals Allowance shall file their application at the local SSA field office.
- (g) Eligibility for, and payment of the Restaurant Meals Allowance to SSI/SSP recipients is administered by the Social Security Administration according to criteria established by SDSS as stated in these regulations.

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- (h) Eligibility Requirements

An aged or disabled recipient of SSI/SSP or a recipient couple, both of whom are aged or disabled, shall qualify for the Restaurant Meals Allowance by meeting the following requirements:

- (1) Meals and adequate cooking and food storage facilities are not provided as part of the living arrangement. This requirement is not met when:
- (A) The recipient's immediate living quarters have adequate cooking and food storage facilities in which the recipient or another person who undertakes the responsibility of preparing meals on behalf of the recipient can prepare meals for the recipient on a daily basis.
 - (B) The recipient has access to adequate cooking and food storage facilities as part of his/her arrangement (but which are outside of his/her immediate living quarters) for the purpose of preparing any of his/her meals or having them prepared on his/her behalf on a daily basis. The recipient has access to adequate cooking and food storage facilities as part of his/her living arrangement when:

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1. The recipient lives in a boarding house with a communal kitchen with adequate cooking and food storage facilities to which he/she has access for preparation for his/her meals.
 2. The recipient lives with friends or relatives in private living quarters in the same house or in separate living quarters as "over the garage" or in similar situations and has access to the cooking and food storage facilities in the main residence for preparation of any of his/her meals.
- (C) The recipient lives in a room and board living arrangement in which the recipient contracts with the facility to have meals prepared and provided as part of the room and board living arrangement.

This regulation is intended to encompass conventional room and board situations in which the recipient purchases his/her meals through the facility on a periodic basis (generally monthly), or on a per meal basis. This regulation would apply whether or not the agreement between the recipient and the facility is separate from the agreement for rental or private living quarters. The regulation is also applicable where the facility contracts with a food preparation service which is separate from the facility to provide the meals.

- (2) Cooking and/or food storage facilities are inadequate for the preparation of the recipient's meals in the living arrangement. For purposes of determining whether cooking and food storage facilities are adequate, the following items are to be considered to be basic requirements:

(A) Adequate Food Storage Facilities

An icebox or refrigerator to which the recipient has access. Capacity of the refrigerator or icebox is not a factor of consideration. An ice chest is not considered adequate storage.

(B) Adequate Cooking Facilities

1. A stove without a working oven but which has at least two working burners, or
2. A hot place with at least two burners with separate temperature controls, or two one-burner hot plates with temperature controls, or

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3. A stove with a working oven or a functioning micro-wave oven in combination with at least one working burner on a stove or a one-burner hot plate with a temperature control. Hot plates without temperature controls which are used for warming food are not considered adequate cooking facilities.

- (3) Eligibility for the Restaurant Meals Allowance exists even if meals which are not prepared as part of a recipient's living arrangement are brought into the recipient's living arrangement (i.e., "Meals on Wheels" Program) or are able to be obtained at a discount.

- (i) Minimum Period of Eligibility

Recipients who must purchase restaurant meals because of the lack, loss or nonfunctioning of their cooking or food storage facilities shall qualify for the Restaurant Meals Allowance if the temporary condition is expected to last one full calendar month or more. The applicant shall report to SSA immediately when he/she knows the condition will cease to exist.

- (j) Determination of Eligibility

The recipient's statement of fact on the application form shall be acceptable proof of eligibility unless the facts as presented are incomplete, unclear, inconsistent or in conflict with other evidence. If the facts so presented are incomplete, unclear, inconsistent, or in conflict with other evidence, SSA will so indicate in the comments section on the final decision on the eligibility of the recipient. In such cases, SSA will not process payment for the Restaurant Meals Allowance before receiving a decision from the state.

- (k) Beginning Date of Allowance

The beginning date of the Restaurant Meals Allowance shall be the first of the month in which the recipient files an application for this allowance with SSA provided that the recipient is or expects to be without cooking and/or food storage facilities for a calendar month.

- (l) Redetermination of Eligibility

The recipient's statement of fact on the application form shall be completed at the time of redetermination of eligibility for SSI/SSP or when a living arrangement change is reported, whichever is earlier.

The recipient has a continuing responsibility to report changes in circumstances which would make him/her ineligible for the Restaurant Meals Allowance.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 12100(d), 12200(e), 12201, and 12303.7, Welfare and Institutions Code; 20 CFR 416.310, .501, and .2015; Committee of the Rights of the Disabled v. Swoap, 48 CA 3d 505; and Section 1611(c), Social Security Act, Title XVI.

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.1 General Statement

Public Law 93-368 provides for reimbursement to the state (or a political subdivision thereof) for interim assistance payments made to SSI/SSP applicants whose applications are subsequently approved for SSI/SSP benefits. Individual authorizations must be signed by the applicants or their representatives and forwarded either manually or electronically to SSA. Reimbursement will be effected by means of an agreement between the Department of Health and Human Services and the State of California Department of Social Services and sub-agreements between SDSS and participating agencies.

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.2 Definitions

For the purposes of these regulations

- .21 Agreement means the contract between DHHS and the State Department of Social Services which outlines the terms under which reimbursement may be made.
- .22 Applicant means an individual or the representative of such individual who has applied for SSI/SSP benefits and who cannot meet his/her basic needs in the period between the application and receipt of his/her benefits upon determination of eligibility.
- .23 Individual Authorization is the form which authorizes payment of an individual's initial SSI/SSP check to the county or state participating agency which has paid interim assistance. The form must be signed by the applicant or his/her designated representative.
- .24 Interim Assistance means any assistance from state or county funds furnished to meet basic needs during the period for which such individual was eligible for SSI/SSP benefits, beginning with the month of application and ending with the receipt of the initial payment.
- .25 Initial Payment means the amount of SSI/SSP benefits, including retroactive amounts, determined to be payable to an individual at the time such an individual is first determined to be eligible, but does not include any advance emergency payment or payment based upon presumptive disability or presumptive blindness made by SSA.

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- .3 Responsibility of State Department of Social Services (SDSS)
- .31 Conduct all negotiations with DHHS.
- .32 Prepare and enter into a contract with state agencies and County Boards of Supervisors which elect to implement the Interim Assistance Program.
- .33 Take appropriate administrative actions to ensure that participating state and county agencies carry out the provisions in the contracts.

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.4 Responsibilities of Participating Agencies

Participation in the program to receive reimbursement for interim assistance shall be the option of the agency. All agencies which elect to participate shall:

- .41 Implement the interim assistance program in compliance with the terms of the contract with SDSS.
- .42 Draft and implement procedures for carrying out the provisions of these regulations. In no event are procedures to be implemented prior to signing of the contract between SDSS and the state agency or the county board of supervisors.
- .43 Obtain individual authorizations as described in Section 46-337.23 from applicants for SSI/SSP to whom interim assistance is paid from participating agency funds. Agencies which use the manual IAR process shall forward the authorization to the local SSA office which accepts or accepted the applicant's SSI/SSP application. Agencies which use the automated IAR process shall notify SSA pursuant to the approved contract between the agency and SDSS. An individual authorization remains in effect until SSA has made a final determination on an individual case. If an application for SSI/SSP benefits is denied, the denial is the final determination unless he/she files a timely appeal with SSA. If this is done a new authorization is not needed. If the applicant files a new application rather than an appeal, a new authorization is required if the agency is to be reimbursed for interim assistance monies advanced.

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- .44 Upon receipt of an initial SSI/SSP payment, deduct the amount of interim assistance and send the remainder to the recipient or his/her representative payee as expeditiously as possible but in any event no later than ten (10) working days from receipt of the initial payment by the participating agency.

Example: If the initial payment is received on Wednesday, October 14, the tenth day would be Tuesday, October 27.

Under current SSA policy, initial SSI/SSP entitlements which exceed \$9,999.99 will be issued in multiple checks. SSA considers the sum of these multiple payments as the actual initial payment.

In such cases, monies from the subsequent SSI/SSP checks received by the participating agency may be withheld if the county participating agency was unable to recover all interim assistance amounts, to which it is entitled, from the first initial payment. Participating agencies shall process such multiple payments in the same manner as they would initial SSI/SSP entitlements that SSA disburses in one check.

- .441 If, by the tenth working day from the day of receipt of an initial payment the participating agency has failed to forward the remittance (if any) to the recipient or his/her representative payee, the participating agency which received the initial payment shall send to the recipient the full amount of the initial payment. When the participating agency has forwarded the remittance within the 10-day requirement, occurrences such as mail delays or discovery of remittance calculation errors shall not constitute the basis for the recipient's entitlement to the full amount of the initial payment.

If, in each of three consecutive months, an agency fails in more than five percent (5%) of its interim assistance cases to comply with the ten-day processing requirement of Section 46-337.44, such failure shall cause the cancellation of the IAR agreement between the SDSS and the participating agency.

- .442 A notice of action (form SSP-17) shall be sent to the recipient or his/her representative payee showing the amount received by the participating agency, the amount deducted as reimbursement for interim assistance and the amount being sent to the recipient or his/her representative payee, if any. The notice of action shall also include the right of the recipient to request a state hearing.

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- .443 When an individual dies after completing an individual authorization form but before receiving the explanation and remittance referred to above, the agency shall within prescribed time limit, provide such explanation and pay the balance due the recipient to the local SSA field office rather than to the recipient or anyone else on his behalf. Such payment shall be sent by registered mail and a return receipt requested.
- .444 If, after offsetting the interim assistance paid to the individual, the agency is unable to locate the individual and deliver the remaining SSI/SSP grant within 60 days, the agency shall forward the remainder to SSA for disbursements.
- .45 Maintain adequate records of all transactions relating to interim assistance made and the apportionment of the individual's initial payment.
- .46 Report to SDSS each month, the total amount of interim assistance paid, and the processing time for forwarding the remittance to the recipients. The report shall be made on the form prescribed by SDSS.

Interim Assistance Reimbursement (IAR) reports are to be received in Sacramento on or before the 8th working day of the month following the report month. One copy shall be sent to:

State Department of Social Services
Statistical Services Branch
744 "P" Street, MS 19-81
Sacramento, CA 95814

When all data is not available, a report shall be transmitted by the due date containing all information that is available at that time. An explanation should be attached for any delay indicating when the Department will receive the completed report. The missing data shall be transmitted as soon as it is available.

In addition to reporting to the state, each participating agency shall account for all interim assistance initial payment dispositions on an individual case basis by way of federal form SSA-8125 (Supplemental Security Income Notice of Interim Assistance Reimbursement Eligibility and Accountability Report) which is to be received with the individual initial payment. The disposition of the initial payment check received is to be reported via the federal form SSA-8125 within thirty (30) working days from the date of receipt of the check or the SSA-8125, whichever is later, by the agency. The completed SSA-8125 is to be sent to the attention of:

Social Security Administration
Assistance Programs Section
IAR Coordinator
100 Van Ness Avenue, 26th Floor
San Francisco, CA 94102

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- .47 Referrals may be made by the SSA field office to the participating agency, or from the participating agency to the SSA District Office.

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- .48 Failure to follow the provisions of Sections 46-337.41 through .46 shall cause the cancellation of the IAR agreement between the SDSS and the participating agency.

.5 Eligibility Requirements for Reimbursement

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- .51 Reimbursement will be made only for state and county funds paid to applicants. Interim Assistance does not include assistance payments financed wholly or partly with federal funds.
- .52 The period for which reimbursement will be made extends from the first of the month in which the SSI/SSP application is made if the applicant was eligible in that month, through and including the month when SSI/SSP payments begin, providing an individual authorization was signed before the initial payment was issued.

If the agency has already prepared, and cannot stop delivery of the next assistance payment when it receives the initial payment from SSA, the amount of the next payment is also reimbursable interim assistance.

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- .53 Monies paid from state or county funds will not be reimbursed if:

- .531 The applicant is determined to be ineligible for SSI/SSP benefits by SSA.
- .532 The authorization was received by the SSA office after eligibility has been approved and action taken by SSA to issue the initial payment to the applicant.

.6 State Hearing

State hearings requested by the recipient shall follow the procedures as set forth in Division 22 of the Manual of Policies and Procedures.

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- .61 State hearings shall be conducted by SDSS only when the issue is (a) the apportionment of the initial payment received by the state or county or (b) that the participating agency has failed to comply with the requirements of Section 46-337.44. An appeal based on the amount of initial payment shall be directed to SSA.
- .7 Confidentiality
 - .71 Procedures for maintaining confidentiality of interim assistance payments shall comply with the regulations of the participating agencies.
 - .72 All information concerning SSI/SSP applicants'/recipients/ identity and the amount of grant shall be confidential.
 - .721 Confidentiality shall be maintained unless the written consent of the applicant/recipient has been obtained, except
 - .722 The information may be shared with government agencies concerned with the administration of the Title XVI program when it is necessary for such administration.
- .8 No administrative costs incurred by the county in implementing this program will be reimbursed by the state or the federal government.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553 and 10554, Welfare and Institutions Code; Section 1631(g) of Title XVI of the Social Security Act, and 20 CFR 416.1901 et seq.